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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,616	03/16/2004	Teodoro Concetti	22868	2944
535	7590	08/10/2007		
K.F. ROSS P.C. 5683 RIVERDALE AVENUE SUITE 203 BOX 900 BRONX, NY 10471-0900			EXAMINER PARADISO, JOHN ROGER	
			ART UNIT 3721	PAPER NUMBER
			MAIL DATE 08/10/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/801,616

Applicant(s)

CONCETTI, TEODORO

Examiner

John R. Paradiso

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 58-60, 62-71 and 73-79 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 58-60, 62-71 and 73-79 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 5/16/2007 have been fully considered but are considered moot in view of the new grounds of rejection.

### ***Claim Rejections - 35 USC § 103***

2. Claims 58-60, 62-71, and 73-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over RAUSING ET AL (US 3531908) in view of SALEMKA ET AL (4976091) and MUELLER ET AL (US 5787687).

RAUSING ET AL discloses a method and apparatus for filling bags (1) by lowering a filling apparatus (3) to the base of the bag, dispensing bulk liquid (5) into the bag, and simultaneously raising the filling apparatus as the fill level of the bag rises. When the filling apparatus has reached a set point at the mouth of the bag, the fill operation ceases and the bag is closed (8).

RAUSING ET AL does not disclose filling the bag at a first rate and then a second slower rate.

SALEMKA ET AL discloses a method and apparatus for filling containers with a liquid in which the liquid is filled at a first rate and then a slower rate (see SALEMKA ET AL, Abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of RAUSING ET AL by filling the bag at a first rate and then a second slower rate, as taught by SALEMKA ET AL, in order to produce a more precise filling.

The combination of RAUSING ET AL and SALEMKA ET AL does not disclose the weighing process as using first a volumetric measurement and then a weight measurement.

MUELLER ET AL discloses a method and apparatus in which a product filling system (34) dispenses an amount of product into a container. The container is then weighed, the weight being used to determine whether the container is full (see Fig. 4 and column 4:62-5:11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of RAUSING ET AL and SALEMKA ET AL by adding a weight sensor, as taught by MUELLER ET AL, in order to provide “the prices control which can be exercised” (MUELLER ET AL column 5:6).

Regarding claims 60 and 71, it would have been obvious to one of ordinary skill in the art at the time the invention was made to raise or lower the filling apparatus at whatever speed is best for the dispensing process, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claims 66 and 77, the uptake of the initial nitrogen purge is being read on the claimed aspirating of dust.

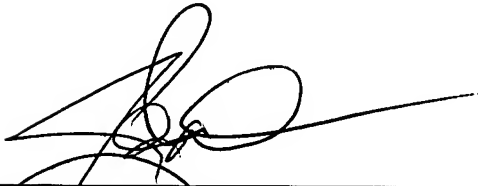
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*Conclusion*

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.



Examiner John Paradiso: (571) 272-4466

August 5, 2007

Additional Phone Numbers:

Supervisor Rinaldi Rada: (571) 308-7135

Fax (Official): (571) 273-8300

Fax (Direct to Examiner) (571) 273-4466 (Drafts only)